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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,677	12/22/2000	Gregory P. Olsen	42390P9701	1644

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Paul A. Mendonsa
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

EXAMINER

NGUYEN, THU HA T

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/746,677

Applicant(s)

OLSEN, GREGORY P.

Examiner

Thu Ha T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

1. Claims **1-18** are presented for examination.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 06, 2004 has been entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4, 7, 10, 13, and 16 are rejected under 35 U.S.C. § 102(e) as being anticipated by **Yuasa et al.** (hereinafter Yuasa) U.S. Patent No. **6,085,238**, in view of **Wright et al.** (hereinafter Wright) U.S. Patent No. **6,442,598**.

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5. As to claim 1, **Yuasa** teaches the invention as claimed, including a method comprising:

dividing a set of target devices to which a message is targeted into subsets of target devices, wherein a subset to which a particular device belongs is determined based on an identifier of the device and the number of subsets of target devices (abstract, figure 1, col. 8 lines 40-col. 10 lines 67, col. 17 lines 20-col. 18 lines 56, col. 45 lines 59-col. 48 lines 10); and

message is communicated to the respective subsets of target devices (col. 17 lines 49-54, col. 19 lines 7-col. 21 lines 51).

However, **Yuasa** does not explicitly teach varying a timing with which the message is communicated to the respective target devices.

Wright teaches varying a timing with which the message is communicated to the respective target devices (col. 9, lines 9-col. 10, lines 7, col. 11, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of **Yuasa and Wright** to vary a timing with which the message is communicated to the respective target devices since such methods were conventionally employed in the art to allow the system to take the advantage of fill broadcast bandwidth and to improve reliability in case of the client not being available to receive the transmissions (See Wright, col. 11, lines 1-16).

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6. As to claim 4, **Yuasa** teaches the invention substantially as claimed, including an article comprising a machine-accessible medium to provide machine readable instructions that, when executed, cause one or more electronic systems to:

divide a set of target devices to which a message is targeted into subsets of target devices, wherein a subset to which a particular device belongs is determined based on an identifier of the device and the number of subsets of target devices (abstract, figure 1, col. 8 lines 40-col. 10 lines 67, col. 17 lines 20-col. 18 lines 56, col. 45 lines 59-col. 48 lines 10); and

message is communicated to the respective subsets of target devices (col. 17 lines 49-54, col. 19 lines 7-col. 21 lines 51).

However, **Yuasa** does not explicitly teach varying a timing with which the message is communicated to the respective target devices.

Wright teaches varying a timing with which the message is communicated to the respective target devices (col. 9, lines 9-col. 10, lines 7, col. 11, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of **Yuasa and Wright** to vary a timing with which the message is communicated to the respective target devices since such methods were conventionally employed in the art to allow the system to take the advantage of fill broadcast bandwidth and to improve reliability in case of the client not being available to receive the transmissions (See Wright, col. 11, lines 1-16).

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7. As to claim 7, **Yuasa** teaches the invention substantially as claimed, including an electronic data signal embodied in a data communications medium shared among a plurality of network devices comprising sequences of instructions that, when executed, cause one or more electronic systems to:

divide a set of target devices to which a message is targeted into subsets of target devices, wherein a subset to which a particular device belongs is determined based on an identifier of the device and the number of subsets of target devices (abstract, figure 1, col. 8 lines 40-col. 10 lines 67, col. 17 lines 20-col. 18 lines 56, col. 45 lines 59-col. 48 lines 10); and

message is communicated to the respective subsets of target devices (col. 17 lines 49-54, col. 19 lines 7-col. 21 lines 51).

However, **Yuasa** does not explicitly teach varying a timing with which the message is communicated to the respective target devices.

Wright teaches varying a timing with which the message is communicated to the respective target devices (col. 9, lines 9-col. 10, lines 7, col. 11, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of **Yuasa and Wright** to vary a timing with which the message is communicated to the respective target devices since such methods were conventionally employed in the art to allow the system to take the advantage of fill broadcast bandwidth and to improve reliability in case of the client not being available to receive the transmissions (See Wright, col. 11, lines 1-16).

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8. As to claim 10, **Yuasa** teaches the invention substantially as claimed, including a method comprising:

dividing a set of target devices to which a message is targeted into multiple subsets of target devices, wherein the subset to which a particular device belongs is determined based on an identifier of the device (abstract, figure 1, col. 8 lines 40-col. 10 lines 67, col. 17 lines 20-col. 18 lines 56, col. 45 lines 59-col. 48 lines 10); and

message is communicated to the respective subsets of target devices (col. 17 lines 49-54, col. 19 lines 7-col. 21 lines 51).

However, **Yuasa** does not explicitly teach varying a timing with which the message is communicated to the respective target devices.

Wright teaches varying a timing with which the message is communicated to the respective target devices (col. 9, lines 9-col. 10, lines 7, col. 11, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of **Yuasa and Wright** to vary a timing with which the message is communicated to the respective target devices since such methods were conventionally employed in the art to allow the system to take the advantage of fill broadcast bandwidth and to improve reliability in case of the client not being available to receive the transmissions (See Wright, col. 11, lines 1-16).

9. Claims 2-3, 5-6, 8-9, 11-12, 14-15, and 17-18 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Yuasa** U.S. Patent No. **6,082,238**, and

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Wright U.S. Patent No. **6,442,598**, further in view of **Iwamura et al.**, (hereinafter **Iwamura**) U.S. Patent No. **6,396,814**.

10. As to claim 2, **Yuasa and Wright** do not explicitly teach the invention as claimed; however, **Iwamura** teaches wherein determining the subset of target devices to which the message is targeted comprises:

broadcasting the message over a network (figure 2, col. 13 lines 54-col. 15 lines 60);

receiving one or more responses to the message from target devices coupled to the network (figure 7, col. 1 lines 37-col. 2 lines 11);

estimating a number of devices coupled to the network (figures 1, 4, 7, col. 1 lines 37-col. 2 lines 11, col. 13 lines 54-col. 15 lines 15, col. 16 lines 63-col. 17 lines 29, col. 25 lines 6-50); and

determining a number of subgroups based, at least in part, on the estimated number of devices coupled to the network (figures 1, 4, 7, col. 1 lines 37-col. 2 lines 11, col. 6 lines 1-12, col. 13 lines 54-col. 15 lines 15, col. 16 lines 63-col. 17 lines 29, col. 25 lines 6-50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of **Yuasa, Wright and Iwamura** to have the determining step of target devices by broadcasting the message, receiving one or more responses, estimating a number of devices and determining a number of subgroups because it would have an efficient communications system that

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improves and reduces the traffic volume by dividing group into smaller group or subgroup and using broadcast method to particular subgroup.

11. As to claim 3, **Yuasa and Wright** do not explicitly teach the invention as claimed; however, **Iwamura** teaches wherein determining the subset of target devices to which the message is targeted comprises:

multicasting the message to a subnet of a network (figure 2, col. 13 lines 54-col. 15 lines 60);

receiving one or more responses to the message from target devices of the subnet (figure 7, col. 1 lines 37-col. 2 lines 11);

estimating a number of devices in the subnet (figures 1, 4, 7, col. 1 lines 37-col. 2 lines 11, col. 13 lines 54-col. 15 lines 15, col. 16 lines 63-col. 17 lines 29, col. 25 lines 6-50); and

determining a number of subgroups based, at least in part, on the estimated number of devices in the subnet (figures 1, 4, 7, col. 1 lines 37-col. 2 lines 11, col. 13 lines 54-col. 15 lines 15, col. 16 lines 63-col. 17 lines 29, col. 25 lines 6-50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of **Yuasa, Wright and Iwamura** to have the determining step of target devices by multicasting the message, receiving one or more responses, estimating a number of devices and determining a number of subgroups because it would have an efficient communications system that improves and reduces

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the traffic volume by dividing group into smaller group or subgroup and using multicast method to particular subgroup.

12. Claims 5-6, 8-9, 11-12, 14-15, and 17-18 have similar limitations as claims 2-3; therefore, they are rejected under the same rationale.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

14. Haumont (USPN 6,466,552), Srinivasan et al. (USPN 6,411,992), Thompson et al. (Pub. No. US 2002/0019236), Dittia et al. (USPN 6,674,721), Arai et al. (USPN 6,532,591), Belknap et al. (USPN 6,763,377), Herz et al. (USPN 6,088,722) are recited for disclosing various information related to the claimed invention. Applicants are requested to consider these prior art references when responding to this office action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen, whose telephone number is (571) 272-3989. The examiner can normally be reached Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam, can be reached at (571) 272-3978.

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Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications.

Thu Ha Nguyen

December 23, 2004

Bharat Barot.
BHARAT BAROT
PRIMARY EXAMINER